

AMENDED IN ASSEMBLY JUNE 27, 2013

AMENDED IN ASSEMBLY JUNE 18, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 9, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 620

Introduced by Senator Wright

February 22, 2013

An act to amend Sections 60290, 60336, and 60339 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 620, as amended, Wright. Water replenishment districts.

(1) Existing law, the Water Replenishment District Act, provides for the formation of water replenishment districts and grants authority to a water replenishment district relating to the replenishment, protection, and preservation of groundwater supplies within that district. The act generally authorizes a water replenishment district to establish an annual reserve fund in an amount not to exceed \$10,000,000 commencing with the 2000–01 fiscal year, and thereafter, as that amount is adjusted annually. The act requires a minimum of 80% of the reserve fund to be expended for water purchases.

This bill, until the 2019–20 fiscal year, would eliminate the requirement that a minimum of 80% of the reserve fund be expended for water purchases. The bill would declare the intent of the Legislature to provide the Water Replenishment District of Southern California with the ability to determine the appropriate use of moneys held in its

annual reserve fund, and that public records shall help the Legislature determine whether the flexibility provided by this act should be permanently extended beyond the 2019–20 fiscal year.

(2) The act provides that any operator of a water-producing facility that knowingly fails to register his or her water-producing facility or knowingly fails to file a groundwater production statement, or any other reports or statements required, as specified, in addition to interest due, as prescribed, is liable to the district for a penalty of \$150.

This bill would provide that the operator is liable to the district for a penalty of \$1,000. The bill would delay the application of the increase in the amount of that penalty to an operator of a water-producing facility that is a party to certain litigation ~~eases~~ *involving a water replenishment district* until after the litigation is settled or all legal remedies ~~are~~ *have been* exhausted.

(3) The act authorizes the superior court of the county in which the major portion of the district lies to issue a temporary restraining order upon the filing by the district with the court of a verified petition or complaint setting forth that the defendant is the operator of a water-producing facility that has not been registered with the district or that the defendant is delinquent in the payment of a replenishment assessment, as specified.

This bill would require the court to direct that the party prevailing on any motion, as prescribed, be awarded the reasonable attorney's fees and costs of making or opposing the motion unless the court finds that the party acted with substantial justification or that other circumstances make the imposition of attorney's fees and costs unjust. The bill would also delay the application of those provisions to an operator of a water-producing facility that is a party to the above-described litigation ~~eases~~, as specified above.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60290 of the Water Code is amended to
2 read:
3 60290. The district may establish an annual reserve fund in an
4 amount not to exceed ten million dollars (\$10,000,000)
5 commencing with the 2000–01 fiscal year. The maximum
6 allowable reserve fund may be adjusted annually commencing

1 with the 2001–02 fiscal year to reflect percentage increases or
2 decreases in the blended cost of water from district supply sources.
3 Beginning in the 2019–20 fiscal year, a minimum of 80 percent
4 of the reserve shall be for water purchases.

5 SEC. 2. Section 60336 of the Water Code is amended to read:

6 60336. (a) Should any operator of a water-producing facility
7 knowingly fail to register his or her water-producing facility or
8 knowingly fail to file the groundwater production statement, or
9 knowingly fail to file and furnish any other reports or statements
10 required by resolution of the board adopted pursuant to Section
11 60326, the operator shall, in addition to interest as provided in
12 Section 60335, become liable to the district for a penalty of one
13 thousand dollars (\$1,000).

14 (b) The changes made to this section by the act adding this
15 subdivision shall not apply to ~~either of the following at the time~~
16 ~~the act adding this subdivision takes effect until after the litigation~~
17 ~~is settled or all legal remedies have been exhausted:~~

18 ~~(1) An operator of a water-producing facility that is a plaintiff~~
19 ~~in City of Cerritos, et al. v. Water Replenishment District of~~
20 ~~Southern California, Los Angeles Superior Court Case No. BS~~
21 ~~128136.~~

22 ~~(2) An operator of a water-producing facility that is a plaintiff~~
23 ~~in Tesoro Refining and Marketing Company v. Water~~
24 ~~Replenishment District of Southern California, Los Angeles~~
25 ~~Superior Court Case No. BS 134239. any operator of a~~
26 ~~water-producing facility that is a party to litigation involving a~~
27 ~~water replenishment district filed before July 1, 2013, until after~~
28 ~~the litigation is settled or all legal remedies have been exhausted.~~

29 SEC. 3. Section 60339 of the Water Code is amended to read:

30 60339. (a) The superior court of the county in which the major
31 portion of the district lies may issue a temporary restraining order
32 upon the filing by the district with the court of a verified petition
33 or complaint setting forth that the person named therein as
34 defendant is the operator of a water-producing facility which has
35 not been registered with the district or that the defendant is
36 delinquent in the payment of a replenishment assessment. The
37 temporary restraining order shall be returnable to the court on or
38 before 10 days after its issuance.

39 (b) The court may issue and grant an injunction restraining and
40 prohibiting the named defendant from the operation of any

1 water-producing facility when it is established by the
2 preponderance of the evidence at a hearing that the defendant has
3 failed to register the water-producing facility with the district or
4 that the defendant is delinquent in the payment of a replenishment
5 assessment. The court may provide that the injunction so made
6 and issued shall be stayed for a period not to exceed 10 days to
7 permit the defendant to register the water-producing facility or to
8 pay the delinquent replenishment assessment.

9 (c) Service of process shall be made by posting a copy of the
10 summons and complaint upon the water-producing facility or the
11 parcel of land upon which the water-producing facility is located
12 and by personal service of summons and complaint upon the named
13 defendant.

14 (d) The right to proceed for injunctive relief as provided in this
15 section shall be in addition to any other right which may be
16 provided elsewhere in this act or which may be otherwise allowed
17 by law. The procedure provided in Chapter 3 (commencing with
18 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure
19 regarding injunctions shall be followed except insofar as it may
20 be otherwise provided in this section.

21 (e) The court shall direct that the party prevailing on any motion
22 under this section be awarded the reasonable attorney's fees and
23 costs of making or opposing the motion unless the court finds that
24 the other party acted with substantial justification or that other
25 circumstances make the imposition of attorney's fees and costs
26 unjust.

27 (f) The changes made to this section by the act adding this
28 subdivision shall not apply to ~~either of the following at the time~~
29 ~~the act adding this subdivision takes effect until after the litigation~~
30 ~~is settled or all legal remedies have been exhausted:~~

31 ~~(1) An operator of a water-producing facility that is a plaintiff~~
32 ~~in City of Cerritos, et al. v. Water Replenishment District of~~
33 ~~Southern California, Los Angeles Superior Court Case No. BS~~
34 ~~128136.~~

35 ~~(2) An operator of a water-producing facility that is a plaintiff~~
36 ~~in Tesoro Refining and Marketing Company v. Water~~
37 ~~Replenishment District of Southern California, Los Angeles~~
38 ~~Superior Court Case No. BS 134239; any operator of a~~
39 ~~water-producing facility that is a party to litigation involving a~~

1 *water replenishment district filed before July 1, 2013, until after*
2 *the litigation is settled or all legal remedies have been exhausted.*
3 SEC. 4. It is the intent of the Legislature that the amendment
4 of Section 60290 will provide the Water Replenishment District
5 of Southern California with the ability to determine the appropriate
6 use of moneys held in its annual reserve fund. Public records that
7 are kept by the district of expenditures from the annual reserve
8 fund shall help the Legislature determine whether the flexibility
9 provided by this act should be permanently extended beyond the
10 2019–20 fiscal year.